



EXHIBIT G-2

FORM OF DISTRIBUTION AGREEMENT (AT&T SERVICES)

Final Version

Date:

DISTRIBUTION AGREEMENT (AT&T SERVICES)

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THIS AGREEMENT IS BETWEEN:

- (1) Newco BV, an entity organized under the laws of the Netherlands ("Newco BV"), having an office at _____; and
- (2) AT&T Corp. ("AT&T"), having a principal office at 295 North Maple Avenue Basking Ridge, New Jersey, USA 07920.

RECITALS

Newco BV, a joint venture formed by AT&T Corp. and British Telecommunications plc ("BT"), and AT&T desire a Newco Subsidiary through its MNC Unit ("Distributor"), to distribute AT&T Services to certain business customers that are Qualifying MNC Customers, pursuant to the terms of the Framework Agreement entered between AT&T, British Telecommunications plc and AT&T simultaneously herewith ("Framework Agreement") and this Agreement.

PART I: PRELIMINARY MATTERS

1. Interpretation

1.1 Definitions:

All terms defined in the Framework Agreement shall have the same meaning in this Agreement, unless otherwise modified by a definition set forth in this section and in this Agreement.

"AT&T Marks" means AT&T's name, logo, trademarks, and service marks (registered and unregistered), trade dress and other symbols that serve to identify and distinguish AT&T from its competitors.

"AT&T Services" means the services Distributor is authorized to distribute pursuant to the Agreement, as further described in Schedule 2.

"Charge" means any charge payable by the Distributor to AT&T in consideration of the provision of the AT&T Services, as further described in Schedule 8.

"Equipment" means any telecommunication apparatus installed or otherwise made available at a Site in order to provide AT&T Services to a Customer.

"Forecast" means the non-binding projections of requirements for AT&T Services provided by the Distributor to AT&T in accordance with this Agreement.

"Intellectual Property" means any patent, copyright, registered design, trade mark or other industrial or intellectual property right in respect of the AT&T Services, and applications for any of the foregoing.

"Invoice Value" means the sums invoiced by AT&T to the Distributor in respect of any AT&T Services, less any value added tax (or other taxes, duties or levies).

"Message" means the subject matter of the transmission or conveyance falling within subparagraphs (a) to (d) in the definition of "Telecommunication System" in this Clause 1.1.

"Party" means a party to this Agreement.

"Qualifying MNC Customer" means an existing or potential business customer (including its employees in their capacity as employees) that is primarily engaged in a Selected Industry Sector and that satisfies the other objective criteria set forth in the MNC Unit Description in Schedule 8 to this Agreement and that consents to purchase its Communications Services requirements from Distributor.

"Remote Network" means those Telecommunication Systems owned and/or operated by a third party by means of which Messages are passed between any Newco Global Point of Presence and any Site located outside the United States.

"Service Description" means the description of the AT&T Services, including the applicable service levels, that are provided to Distributor pursuant to this Agreement.

"Service Request Procedure" means the procedure for ordering AT&T Services set out in Schedule 3.

"Site" means a Customer premise in the United States.

"Telecommunication System" means a system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, of:

- (a) speech, music and other sounds;
- (b) visual images;

- (c) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or
- (d) signals serving for the actuation or control of machinery or apparatus.

"Technical Intellectual Property Rights" mean patents, utility models, design patents, registered designs, copyright of any kind, semi-conductor topography rights, design rights and any rights of a similar nature in any country of the world including rights in trade secrets and confidential information where such rights arise and includes applications therefor, but excludes AT&T Marks.

"Year" means any complete period of twelve months commencing on the Effective Date of this Agreement and on each anniversary thereof.

- 1.2 The expressions "AT&T" and "Distributor" shall include their respective successors and permitted assigns.
- 1.3 Except as expressly provided herein, any reference to any legislative act shall be deemed to include any amendment, replacement or re-enactment thereof for the time being in force and to include any delegated legislation, orders, notices, directions, consents or permissions made thereunder and any condition attaching thereto.
- 1.4 Words importing the singular include the plural and vice versa and words importing gender include any other gender.
- 1.5 The headings in this Agreement are for ease of reference only and shall not be taken into account in the construction or interpretation of any provision to which they refer.
- 1.6 References in this Agreement to Clauses or Schedules are references to Clauses of or schedules to this Agreement. The Schedules are an integral part of this Agreement.
- 1.7 Any undertaking in this Agreement not to do any act or thing shall be deemed to include an undertaking not to permit or suffer the doing of that act or thing.
- 1.8 The expression "person" used in this Agreement shall include (without limitation) any individual, partnership, body corporate or unincorporated association.

- 1.9 References in this Agreement to a Party being obliged to procure that another person shall do something or shall not do something shall be deemed to require that Party to exercise all voting rights and other powers of control available to that Party in relation to that person so as to procure, insofar as that Party is able by the exercise of such rights and powers, that that person does or does not do such thing, as appropriate.
- 1.10 In accordance with Article 20.1(c) of the Framework Agreement, this Agreement shall become effective upon the closing of Newco BV ("Effective Date").
- 1.11 Either party will be permitted to withdraw from or not to consummate this Agreement by providing written notice thereof to the other party if regulatory authority of competent jurisdiction raises objections of a competition or regulatory nature to this Agreement and/or its terms which the parties, having used their reasonable endeavours, are unable to resolve. The parties shall be deemed not to have been able to resolve such objections if either or both of them are unable to find solutions satisfactory to such authorities, which do not undermine their fundamental rationale for entering into this agreement.

PART II: DISTRIBUTORSHIP

2. Appointment as Distributor

- 2.1 AT&T appoints Distributor as its exclusive distributor for the marketing, promotion, sale and distribution of AT&T Services to Qualifying MNC Customers, except as provided in the Framework Agreement and except for wireless services, which shall be the subject of an agency agreement to be agreed.

PART III: SERVICES

3. Provision of AT&T Services

- 3.1 For the purposes of this Clause 3:

3.1.1 "Non-standard AT&T Service" means a service or feature which at the time of the request is not included in the current range of AT&T Services; and

3.1.2 "Additional Request" means a request by the Distributor for AT&T Services where the effect of such request, taken together with all

current commitments of AT&T to provide AT&T Services to Distributor would be to exceed the aggregate requirements for AT&T Services for the relevant period as stated in the Forecast.

- 3.2 Within ninety days of the Effective Date of this Agreement, the Distributor shall provide an initial non-binding forecast in accordance with the provisions of Schedule 4 of the aggregate requirements for each of the AT&T Services. The procedure for making and revising such a Forecast and for subsequent Years is contained in Schedule 4.
- 3.3 AT&T shall provide AT&T Services to the Distributor upon request except in the case of (a) an Additional Request or (b) where the Service requested includes Non-standard AT&T Services, in which event AT&T shall use reasonable endeavours to offer terms on which it is prepared to provide such AT&T Services but shall not be under any liability for failure to do so to the Distributor.
- 3.4 The Distributor shall order AT&T Services in accordance with the Service Request Procedure described in Schedules 3 and 5.
- 3.5 Where AT&T supplies any AT&T Services pursuant to this Clause 3, it shall do so in accordance with the applicable Service Description or, in the case of non-standard AT&T Services, in accordance with a mutually agreed Service Description.
- 3.6 The terms and conditions pursuant to which AT&T provides the AT&T Services to the Distributor are set out in Schedule 5. The procedures under which AT&T Services including Non-standard AT&T Services are supplied shall be subject to mutual agreement in accordance with the Service Request Procedure set out in Schedule 3.
- 3.7 AT&T shall provide customer support to the Distributor to the extent set out in any applicable Service Description and as set out in Schedule 6.
- 3.8 AT&T and the Distributor shall co-operate as may be reasonably necessary to co-ordinate the operational matters affecting the interworking between Newco's Global Communications Services and AT&T Services. AT&T shall be excused from any failure to comply with the applicable service levels to the extent such failure is caused by Newco's Global Communications Services.
- 3.9 In relation to any particular Customer or Customers:

3.9.1 either Party may request the other Party to act as agent of the

other Party, on terms to be agreed, in discharging its obligations under this Clause 3 where this is necessary for regulatory or other compelling reasons (including without limitation economic reasons); and

3.9.2 either Party may by mutual agreement act as subcontractor to the other in performing the obligations of the other under this Clause 3 on terms to be agreed.

4. New AT&T Services and Changes to Existing AT&T Services

4.1 From time-to-time (at least bi-annually), the Parties will meet to discuss potential changes (e.g. additions, modifications, discontinuances) to the AT&T Services, new technology, Customer service requirements, Charges, Customer support, AT&T Services and the responsibilities of the Parties hereunder. AT&T may upon notice add to, substitute or reduce the current range of AT&T Services or vary the Service Description and terms and conditions applicable to any of the current range of AT&T Services, in accordance with the procedure set out in Schedule 1, Provided that any such substitution, reduction or variation shall not apply for a period of three months from notification, subject to Applicable Law, if in the reasonable opinion of AT&T, it would affect adversely the functionality or performance specifications of:

4.1.1 any AT&T Service being provided to the Distributor to the extent that the Distributor is under an obligation to any Customer to provide such AT&T Service; or

4.1.2 any AT&T Service already requested by the Distributor under the Service Request Procedure set out in Schedule 3, to the extent that the Distributor may be or become obligated to any Customer to provide such AT&T Service; or

4.1.3 any AT&T Service in respect of which AT&T has given a quotation to the Distributor under the Service Request Procedure, for the validity period of such quotation as specified in the relevant Service Description or as detailed in Schedule 9 and to the extent that the Distributor may be or become obligated to any Customer to provide such quoted AT&T Service.

4.2 While AT&T shall have the ultimate discretion to implement changes to the Service Descriptions of AT&T Services as described above, it shall take due consideration of the impacts of such changes on the Distributor's Customers, and shall give as much advance notice as reasonably

practical, where such changes may be expected to have an adverse effect on the Distributor's Customers.

PART IV: MARKETING, SUPPORT AND PURCHASE OBLIGATIONS

5. Obligations of the Distributor

5.1 The Distributor shall:

- a) use reasonable endeavours to sell AT&T Services to Qualifying MNC Customers, including without limitation maintaining adequate sales and distribution personnel and appropriate facilities; and
- b) spend such sums on advertising and promoting the AT&T Services during each Year of this Agreement, as are reasonably necessary for the Distributor to carry out its obligations under this Agreement.

5.2 In accordance with Section 10.1(a) of the Framework Agreement, Distributor, and its Subsidiaries and Affiliates, shall purchase all Communications Services under this Agreement in the United States exclusively from AT&T or its Subsidiaries.

5.3 The Distributor shall attend periodical marketing meetings to consider market trends, AT&T Services development, quality of service, customer satisfaction, pricing and other matters agreed by the Parties.

6. Obligations of AT&T

6.1 AT&T shall provide reasonable technical and commercial support to the Distributor in sales and marketing activities, as follows:

- 6.1.1 advising on the most suitable means, technical and commercial, of meeting the requirements of a potential Qualifying MNC Customer;
- 6.1.2 supporting account management as mutually agreed to by the parties; and
- 6.1.3 assisting and participating in the preparation and presentation of proposals to potential Customers, consistent with product management support;

as set out and subject to the terms of Schedule 7.

6.2 AT&T shall attend periodic marketing meetings to consider market trends, AT&T Services development, quality of service, Customer satisfaction and other matters agreed upon by the parties.

- 6.3 AT&T shall provide the training referred to in Schedule 12.
- 6.4 AT&T shall provide all other services as specified in the Schedules to this Agreement.

7. Branding

- 7.1 AT&T hereby authorizes the Distributor to use the AT&T Marks on or in relation to the AT&T Services for the purposes only of distributing the AT&T Services under this Agreement.
- 7.2 The Distributor shall ensure that each reference to and use of any of the AT&T Marks by the Distributor is in a manner consistent with the AT&T Brand Guidelines in Schedule 11, as amended from time to time, provided that amendments that are material or adverse to Distributor shall apply only to the extent agreed by the Parties.
- 7.3 The Distributor shall not:
- a) make any modifications to the AT&T Services;
 - b) alter, remove or tamper with any AT&T Marks, numbers, or other means of identification used on or in relation to the AT&T Services;
 - c) use any of the AT&T Marks in any way which might prejudice their distinctiveness or validity or the goodwill of AT&T therein; or
 - d) use in relation to the AT&T Services any trademarks other than the AT&T Marks, without obtaining the prior written consent of AT&T.
- 7.4 Except as provided in Clause 7.1, the Framework Agreement and the related IPR Agreement, the Distributor shall have no rights in respect of any trade names or AT&T Marks.
- 7.5 The Distributor shall, at the expense of AT&T, take such steps as AT&T may reasonably require to assist AT&T in maintaining the validity and enforceability of the Intellectual Property of AT&T during the term of this Agreement.
- 7.6 The Distributor shall at the request of AT&T execute such registered user agreements or licenses in respect of the use of the AT&T Marks as AT&T may reasonably require, provided that the provisions thereof shall not be more onerous or restrictive than the provisions of this Agreement.
- 7.7 Without prejudice to the right of the Distributor or any third party to challenge the validity of any Intellectual Property of AT&T, the Distributor shall not do or authorize any third party to do any act which would or

might invalidate or be inconsistent with any Intellectual Property of AT&T and shall not omit or authorize any third party to omit to do any act which, by its omission, would have that effect or character.

- 7.8 The Distributor shall promptly and fully notify AT&T of any actual, threatened or suspected infringement of any Intellectual Property of AT&T which comes to the Distributor's notice, and of any claim by any third party so coming to its notice that the offer or sale AT&T Services infringes any rights of any other person, and the Distributor shall at the request and expense of AT&T do such things as may be reasonably required to assist AT&T in taking or resisting any proceedings in relation to any such infringement or claim.
- 7.9 All existing and developed goodwill symbolized by the AT&T Marks inures to the sole benefit of AT&T. AT&T shall retain all rights in and to the AT&T Marks, including all rights of ownership, and the right to license the same to third parties.
- 7.10 Distributor shall ensure that neither its customer nor any other reseller or intermediary in the sales chain between its customer and an end user may make any use of AT&T Marks (including but not limited to use in advertising, promotional materials, Internet or other on-line website, stationery, business cards, billing material or signage, or of any confusingly similar name, logo trademarks and service marks (registered and unregistered), trade dress or other symbols, except that a reseller may:
- a) use AT&T's Marks in comparative advertising solely to identify AT&T as a competitor, or to identify AT&T's competing services, provided such use is not made in a factually incorrect or misleading context or in a manner that is likely to cause confusion or mistake, or to deceive or to identify AT&T as an underlying provider of the reseller's service;
 - b) use AT&T's Marks pursuant to the terms of a separate written brand licensing agreement with AT&T;
 - c) use AT&T's name to the extent it is specifically required by statute, regulation or other government requirement to do so; and,
 - d) indicate, in response to an unsolicited inquiry from an end user (including a prospective end user), that it uses AT&T as its underlying carrier, provided the reseller also:

1. advises the end user that a portion of its service will be provided using reseller's own switching or transmission facilities (if applicable);
2. identifies any other long distance provider the reseller uses in providing service to the end user;
3. advises the end user it will not be an AT&T customer for the resold service, and;
4. does not emphasize AT&T's name more than either its own name or that of any other long distance provider the reseller uses.

For purposes of this provision, an AT&T Service is resold if the Distributor's customer (or any other reseller or intermediary in the sales chain between the customer and an end user) uses the AT&T Service to reoffer telecommunications service to others (with or without "adding value") for profit.

7.11 Distributor shall, in its contracts, require its customers to comply with the provisions of section 7.10, and subject to Applicable Law, shall name AT&T as a third party beneficiary of such requirement.

PART V: TECHNICAL AND OPERATIONAL MATTERS

8 [Intentionally left blank]

9. Connection of Equipment and Systems

- 9.1 Neither party shall connect directly or indirectly to the other's network any equipment or Telecommunication System which damages or is likely to cause any damage to the other's network.
- 9.2 The Distributor shall comply with, and shall require and ensure that its Customers comply with, such reasonable security procedures relating to the use of the AT&T Services, as AT&T may notify to the Distributor from time to time.
- 9.3 AT&T shall comply with such reasonable security procedures relating to the use of the Newco's Global Platform, as the Distributor may notify to AT&T from time to time.

10. Equipment

- 10.1 The provisions of this Clause 10 shall apply insofar as AT&T is obliged in accordance with the applicable Service Description to provide any Equipment at a Site.
- 10.2 AT&T shall supply the Distributor in reasonable time with the relevant information to enable the Distributor to coordinate with its Customer, where necessary, to prepare the Site for the delivery and installation of the Equipment. The Distributor shall provide reasonable assistance and facilities to AT&T in the installation of the Equipment and shall subsequently provide or procure suitable accommodation, assistance, facilities, and environmental conditions for the housing of the Equipment and all necessary electrical and other installations and fittings. The Distributor shall use all reasonable endeavours to effect such preparation and provision at no cost to AT&T before the Equipment is installed at a Site.
- 10.3 The Distributor undertakes directly or indirectly:
- 10.3.1 to house, keep and use the Equipment in accordance with such reasonable written instructions as may be notified by AT&T from time to time;
 - 10.3.2 unless otherwise agreed, to keep the Equipment at the Site and not to add to, modify, or in any way interfere with, the Equipment;
 - 10.3.3 not to cause the Equipment to be repaired or serviced except as approved by AT&T, its agents or subcontractors;
 - 10.3.4 to provide AT&T with reasonable access to the Equipment and in any event such access as is specified in the applicable Service Description.
- 10.4 AT&T undertakes directly or indirectly to install the Equipment in a timely and proper manner.
- 10.5 No title to the Equipment shall pass to any person unless otherwise expressly agreed.
- 10.6 The Distributor shall be responsible for the Equipment while it is at a Site and shall be liable to AT&T for any loss or damage to the Equipment (except in so far as any such loss or damage is attributable to the

negligent or willful act or omission of AT&T, its agents, subcontractors or employees).

11. Access to Sites

11.1 The Distributor shall ensure that AT&T, its employees, agents and subcontractors have such access to any Site as may be reasonably necessary for the performance by AT&T of its obligations under this Agreement and in any event such access as may be specified in the applicable Service Description.

11.2 The Distributor shall use its reasonable endeavours to ensure that no employee of AT&T, its agents or subcontractors when requesting access to any Site pursuant to Clause 11.1 is refused admittance to such Site or required to leave such Site except for good and substantial cause. In the event of any such refusal or requirement without good cause:

11.2.1 AT&T shall be excused from any failure to provide AT&T Services in accordance with the applicable service levels to the extent that such failure results from such refusal or requirement; and

11.2.2 the Distributor shall reimburse AT&T in respect of any additional costs and expenses which it may incur as a result of such refusal or requirement.

12. Regulatory Approvals

12.1 Where there is a requirement under the law or regulation of any jurisdiction to obtain (a) any consent, license or authorization for the provision of AT&T Services and/or (b) approval for the use of any telecommunication apparatus by any person providing or making use of the AT&T Services, then as between the Parties hereto one or other of them shall be obliged to obtain or to procure the obtaining by its contractors or agents of such consent, license or authorization in accordance with the following provisions:

12.1.1 in relation to the supply of AT&T Services to the Distributor, the obligation shall be that of AT&T; and

12.1.2 in relation to Distributor's supply of AT&T Services to the Qualifying MNC Customer, the obligation shall be that of the Distributor. AT&T has responsibility to understand and advise on the regulatory environment in the United States. Where possible, AT&T will provide assistance to enable the Distributor to sell

through regulatory arrangements effected by the Distributor, but where there is a requirement for Distributor to have its own license, the Distributor shall do so at its own expense, but with assistance from AT&T or its agents.

- 12.2 Where the obligation to obtain any such consent, license or authorization is imposed on either Party or both Parties under any law or regulation in any jurisdiction, then the obligation shall be that of that Party or as the case may be of both Parties, notwithstanding any contrary provision of Clause 12.1.
- 12.3 AT&T will use Reasonable Best Efforts to conclude, at its expense, all necessary licensing arrangements to enable Distributor to distribute regulated interstate AT&T Services in the United States pursuant to this Agreement. Distributor will be responsible for obtaining, at its expense, all additional licenses and authorizations, including authorizations necessary to enable Distributor to distribute intrastate and local AT&T Services in the United States. Upon Distributor's request, AT&T will provide reasonable and appropriate assistance to Distributor in connection with procuring such intrastate and local authorizations, and AT&T's expenses incurred in doing so shall, following advance notice to Distributor, be charged back to Distributor.

PART VI: FINANCIAL MATTERS

13. Charges

- 13.1 In consideration of the provision of the AT&T Services, the Distributor shall pay to AT&T the Charges calculated in accordance with the MNC Unit Principles set forth in Schedule 7.10 of the Framework Agreement.
- 13.2 Where the Distributor requests a quotation for the provision of Non-standard AT&T Services, such quotation shall be in U.S. dollars unless otherwise agreed, and shall be in accordance with the Customized Products and Services section of Schedule 7, provided that AT&T shall not be obliged to quote in respect of a service period exceeding 36 months.
- 13.3 All Charges are exclusive of any applicable value added tax, sales tax or other indirect taxes which shall be separately stated by taxing jurisdiction and charged in accordance with Applicable Law and payable by the Distributor, except to the extent that the Distributor provides AT&T a valid tax exemption certificate. AT&T income taxes shall not be chargeable to the Distributor.

13.4 The price and other terms and conditions on which AT&T Services are supplied to its Customers shall be determined by the Distributor.

14. Billing and Payment

14.1 All Charges shall be payable in U.S. dollars, unless otherwise agreed.

14.2 Charges shall be due monthly in arrears.

14.3 AT&T shall present an invoice for Charges and associated Invoice Detail (usage data) as soon as reasonably practicable but typically within 30 to 60 days after the month in which AT&T Services are provided. The sum stated in each invoice shall be payable within 30 days of presentation.

14.4 Neither invoices nor Invoice Detail may be presented later than twelve (12) months from the end of the month in which AT&T Services are provided.

14.5 Each invoice presented by AT&T shall be in an agreed format and shall provide such information as is reasonably necessary for the verification of Charges and as set out in Schedule 8.

14.6 In respect of any sum payable under this Agreement, in the event of late payment which is not related to or caused by AT&T's late invoicing described in Clause 14.4, interest shall be chargeable from the date on which such sum was due and payable until the date of payment. Such interest shall be calculated from day to day at a rate equivalent to the lesser of the permissible lawful rate in the Territory and two per cent above the London Inter Bank Overnight Rate (LIBOR), and shall accrue both before and after judgment. Interest shall not be charged unless AT&T has delivered at least two written reminders to the Distributor.

PART VII: FURTHER PROVISIONS

15. Liability of the Parties

15.1 AT&T and the Distributor shall indemnify and hold each other harmless against all liability, loss, damage and expense (including but not limited to reasonable legal fees and legal costs) resulting from injury to or death of any person (including injury to or death of their respective subcontractors or employees) to the extent that such liability, loss, damage or expense was caused by any negligent or willful act or omission by the Party from whom indemnity is sought, its agents or employees.

- 15.2 AT&T and the Distributor shall indemnify and hold each other harmless against all liability, loss, damage and expense (including but not limited to reasonable legal fees and legal costs) resulting from loss of or damage to real or personal property (including damage to their property) to the extent that such liability, loss, damage or expense was caused by any negligent or willful act or omission by the Party from whom indemnity is sought, its agents or employees.
- 15.3 THE AGGREGATE LIABILITY OF EACH PARTY TO THE OTHER FOR ALL CLAIMS MADE DURING ANY YEAR UNDER THIS AGREEMENT FOR DAMAGES NOT OTHERWISE EXCLUDED HEREUNDER SHALL BE LIMITED TO TEN MILLION US DOLLARS IN RESPECT OF ANY AND ALL CLAIMS MADE IN THAT YEAR.
- 15.4 WHERE IN RELATION TO ANY SERVICE THE APPLICABLE SERVICE DESCRIPTION PROVIDES FOR A SYSTEM OF REBATES OR CREDITS AGAINST CHARGES IN RESPECT OF FAILURE TO PROVIDE SUCH SERVICE IN ACCORDANCE WITH THE APPLICABLE SERVICE LEVELS, SUCH REBATES OR CREDITS SHALL BE THE EXCLUSIVE FINANCIAL REMEDY OF THE DISTRIBUTOR IN RESPECT OF SUCH FAILURE. FOR THE AVOIDANCE OF DOUBT SUCH REBATES OR CREDITS SHALL BE DEEMED TO BE A LIABILITY OF AT&T FOR THE PURPOSES OF THIS AGREEMENT.
- 15.5 Except with respect to such loss or damage as is referred to in Clauses 15.1 and 15.2, the Distributor shall ensure that to the extent permitted by Applicable Law its contracts with Customers exclude all liability of AT&T to the Customer and preclude the Customer from making any claim against AT&T, and in the event that any such claim is made by a Customer howsoever arising from or related to the provision of AT&T Services under this Agreement the Distributor shall indemnify AT&T in respect of such claim.
- 15.6 IN ANY EVENT, IN NO CIRCUMSTANCES INCLUDING THE NEGLIGENT ACT OR OMISSION OF ITSELF, ITS SERVANTS OR AGENTS SHALL EITHER PARTY BE LIABLE TO THE OTHER IN CONTRACT, TORT OR OTHERWISE FOR ANY LOSS OF REVENUE, BUSINESS, CONTRACTS, ANTICIPATED SAVINGS OR PROFITS OR ANY LOSS OR DESTRUCTION OF DATA OR FOR ANY INDIRECT OR CONSEQUENTIAL LOSS WHATSOEVER.
- 15.7 The provisions of this Clause 15 shall continue to apply notwithstanding the termination or expiry of this Agreement for any reason whatsoever.

16. Confidentiality and Data Protection

16.1 AT&T shall not disclose any Message conveyed by means of the AT&T Services or the existence of any such Message except in relation to any information requested or required to be disclosed by any court or governmental or regulatory authority entitled by law to require the same.

16.2 The Parties shall procure that their respective Affiliates shall keep confidential all information disclosed under this Agreement and all Distributor Customer information, whether that information is:

16.2.1 generated or commissioned by AT&T; or

16.2.2 related to the business affairs of any of the Parties or of their Affiliates or Distributor's Customers.

16.3 The restrictions in Clause 16.2 shall not apply to:

16.3.1 information which enters the public domain otherwise than by breach of this Agreement;

16.3.2 information already in the possession of a Party or any of its Affiliates before disclosure to it under this Agreement and which was not acquired directly or indirectly from another Party or one of its Affiliates;

16.3.3 information lawfully obtained from a third party who is free to disclose such information;

16.3.4 information developed or created by a Party or any of its Affiliates independently of this Agreement;

16.3.5 disclosures of information solely as requested or required to be disclosed by any court or governmental or regulatory authority entitled by law to require the same PROVIDED ALWAYS THAT, prior to such disclosure if practicable, the disclosing Party shall notify in writing the owner of such information (where the identity of such owner can be determined) that such request has been made.

PROVIDED THAT the Party seeking to rely on an exemption contained in this Clause 16.3 shall provide such evidence as the

other Party may reasonably require to prove that the information sought to be exempted falls within the relevant category.

- 16.4 The restrictions contained in Clause 16.2 shall last for a period of five years from the relevant disclosure, without prejudice to any continuing restriction which may apply to the relevant information under any other agreement binding on the Parties, and shall survive termination of this Agreement for whatever reason.
- 16.5 AT&T shall take such steps as are reasonably practicable to maintain the security of communications and Distributor's Customer information conveyed by means of the AT&T Services. Both Parties shall comply with the Data Segregation Agreement.

17. Term

The term of this Agreement shall commence as soon as the conditions contained in Clauses 1.10 and 1.11 are satisfied and shall continue in force until termination in accordance with Clause 18.

18. Termination

- 18.1 This Agreement shall be terminable upon notice in writing by either Party on the other taking immediate effect if:
- 18.1.1 the other Party has become insolvent or involved in a liquidation or termination of its business, or adjudicated bankrupt, or been involved in an assignment for the benefit of its creditors, or
 - 18.1.2 Newco BV is dissolved or terminated or AT&T ceases to be a shareholder of the joint venture, for any of the reasons stated in and pursuant to the terms of the Framework Agreement (including, but not limited to, Performance Test Shortfall, Bankruptcy, Change of Control or Event of Default).
- 18.2 Subject to the provisions of Clause 19.1 below, AT&T shall without prejudice to its other rights have the right to suspend the provision of any AT&T Service in the event that it is entitled to terminate this Agreement pursuant to Clause 18.1.
- 18.3 Neither Party shall have the right to terminate this Agreement on the basis of the other Party's material breach of this Agreement, unless such breach constitutes an Event of Default under the Framework Agreement and also results in the dissolution or termination of the JV. In any event, a material

breach by the other Party shall be subject to the dispute resolution procedures (including executive escalation and arbitration) specified in the Framework Agreement.

19. Consequences of Termination

19.1 In the event of termination of this Agreement for any reason, AT&T shall continue to provide AT&T Services to the Distributor for such period (not exceeding three years from the date of termination) and to such extent as the Distributor may be under a contractual obligation to any Customer to continue providing AT&T Services.

19.2 In the event of termination for whatever reason:

19.2.1 outstanding unpaid invoices rendered by AT&T in respect of the AT&T Services shall remain payable, and invoices in respect of AT&T Services ordered before termination but for which an invoice has not been submitted shall be payable, by the Distributor in accordance with the terms of this Agreement;

19.2.2 the Distributor shall cease to promote, market or advertise the AT&T Services or to make any use of the AT&T Trade Marks, other than to complete performance under an existing Customer contract;

19.2.3 the Distributor shall at its own expense join with AT&T in procuring the cancellation of any registered user agreements entered into pursuant to Clause 7.6;

19.2.4 the provisions of Clauses 15, 16 and 21 shall continue in force in accordance with their respective terms;

19.2.5 Neither party shall have a claim against the other for compensation for loss of distribution rights, loss of goodwill or any similar loss; and

19.2.6 subject to any rights or obligations which have accrued prior to termination, neither party shall have any further obligation to the other under this Agreement.

20. Force Majeure

20.1 Neither Party shall be liable for any breach of this Agreement due to any cause beyond its reasonable control ("Force Majeure") including without

limitation Act of God, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government, highway authority or other competent authority, compliance with any statutory obligation or executive order, industrial disputes of any kind (whether or not involving either Party's employees), fire, lightning, explosion, flood, subsidence, weather of exceptional severity, acts or omissions of persons for whom neither Party is responsible including without limitation public telecommunication operators in their capacity as such, provided that, a Party shall only be excused from liability under this Clause 20.1 to the extent that it has used all due diligence to remove or avoid the effect of Force Majeure.

- 20.2 AT&T or the Distributor shall promptly notify the other of the occurrence of any Force Majeure event which has caused or is likely to cause it to fail to perform its obligations under this Agreement.

21. Choice of Law and Jurisdiction

- 21.1 This Agreement shall be governed by and construed and interpreted in accordance with Laws of the State of New York, excluding the choice of laws rules.
- 21.2 The Parties shall follow the Dispute Resolution provisions specified in the Framework Agreement in connection with all claims arising out or relating to this Agreement.

22. Relationship between AT&T and Distributor

- 22.1 The Distributor, an Affiliate of AT&T, acts as an independent contractor with respect to third parties, and as such is fully responsible for its acts or defaults (including those of its employees or agents). The Distributor agrees that in all correspondence and other dealings relating directly or indirectly to the AT&T Services it shall clearly indicate that it is acting as a distributor, and is solely responsible for the provision of such services to its customer.

The regulated services covered in Schedule 2 are, except as otherwise agreed herein, currently defined in AT&T's tariffs. If, upon review by the Distributor, the Distributor believes any such terms would disadvantage the Distributor, AT&T agrees to negotiate in good faith changes to such services, provided that if such changes would materially impact AT&T's cost of providing the services, AT&T reserves the right to pass through such costs.

22.2 Except where otherwise expressly provided for in this Agreement or mutually agreed, the Distributor has no authority or power to bind or contract or negotiate in the name of or to incur any debt or other obligation on behalf of or create any liability against AT&T in any way or for any purpose. The Distributor shall transact all business pursuant to this Agreement on its own behalf and for its own account.

23. Intellectual Property Rights and Indemnity

23.1 All matters dealing with Intellectual Property Rights arising under this Agreement shall be dealt with in accordance with the terms of the IPR Agreement.

23.2 AT&T will indemnify and hold harmless the Distributor against any damages (including reasonable costs) that may be awarded or agreed to be paid to any third party in respect of any claim or action that the receipt from AT&T of AT&T Services or material relating to the marketing, advertising, sale or distribution of AT&T Services by the Distributor infringes the patent, copyright, registered design, unregistered design rights, semi-conductor topography rights, service mark or trade mark rights of said third party ("Intellectual Property Infringement"), provided that, the Distributor:

23.2.1 gives notice to AT&T of any Intellectual Property Infringements (or any allegations thereof) forthwith upon becoming aware of the same;

23.2.2 gives AT&T the sole conduct of the defense to any claim or action in respect of an Intellectual Property Infringement (or any allegation thereof) and does not at any time admit liability or otherwise attempt to settle or compromise the said claim or action except upon the express instructions of AT&T in writing; and

23.2.3 acts in accordance with the reasonable instructions of AT&T and gives to AT&T such assistance as it shall reasonably require in respect of the conduct of the said defense including, without prejudice to the generality of the foregoing, the filing of all pleadings and other court process and the provision of all relevant documents.

23.3 AT&T shall reimburse the Distributor its reasonable costs incurred in complying with the provisions of Clause 23.2.

23.4 AT&T shall have no liability to the Distributor in respect of an Intellectual

Property Infringement if the same results from any breach of the Distributor's obligations under this Agreement.

23.5 In the event of an Intellectual Property Infringement, AT&T shall be entitled at its own expense and option either to:

23.5.1 procure the right for the Distributor to continue using the AT&T Services; or

23.5.2 make such alterations, modifications or adjustments to the AT&T Services that they become non-infringing without incurring a material diminution in performance or function; or

23.5.3 replace the AT&T Services with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance or function.

23.6 If AT&T in its reasonable judgment is not able to exercise any of the options set out at Clauses 23.5.1, 23.5.2 or 23.5.3 above within 90 days of the date it received notice of the Intellectual Property Infringement, then either Party, without prejudice to any other rights or remedies it may have hereunder or at law, shall be entitled to terminate pending orders for the affected AT&T Service by 7 days' notice upon the other Party.

23.7 AT&T shall have no liability to the Distributor in respect of an Intellectual Property Infringement if the same results from:

23.7.1 work carried out by AT&T, its agents or employees in accordance with directions or specifications given by the Distributor or its Customer; or

23.7.2 the direct or indirect connection of Newco's Global Platform or of any equipment or apparatus, other than that supplied by AT&T, to the AT&T Services.

The Distributor shall indemnify AT&T in respect of any such Intellectual Property Infringement in the same terms as Clauses 23.2, 23.3, 23.4 and 23.7 mutatis mutandis.

24. Invalidity

24.1 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not

affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

25. Assignment

- 25.1 Subject to the provisions of this Clause 25, neither Party may assign, novate or transfer this Agreement without the consent of the other. Any purported assignment of this Agreement not in accordance with this Clause 25 shall be void.
- 25.2 Subject to the prior consent in writing of AT&T, the Distributor may appoint one or more sub-distributors and may supply any AT&T Services provided by AT&T to such sub-distributor for sale to Qualifying MNC Customers. Upon termination of this Agreement for any reason, the Distributor shall use its best endeavours to procure the novation of all existing sub-distributor agreements to AT&T as quickly as practicable.
- 25.3 AT&T shall be entitled to perform any of the obligations undertaken by it and to exercise any of the rights granted to it under this Agreement through any other company which at the relevant time is its Affiliate and any act or omission of any such company shall for the purposes of this Agreement be deemed to be the act or omission of AT&T.
- 25.4 AT&T may assign this Agreement, in whole or in part, and the rights and obligations thereunder to any Affiliate of AT&T and Distributor may assign or sub-contract its rights and obligations concerning its performance to a Distributor Affiliate.
- 25.5 This Agreement is personal to the Distributor, and except as stated herein may not without the written consent of AT&T, be assigned, mortgaged, charged (otherwise than by floating charge) or disposed of or sub-contracted or otherwise delegated.
- 25.6 The Distributor shall indemnify and hold AT&T harmless against all liability, loss, damage, and expense (including but not limited to reasonable legal fees and legal costs) to the extent such liability, loss, damage or expense was caused by the exercise of the Distributor's rights under this Clause 25.

26. Notices

26.1 Any and all notices pursuant to this Agreement shall be in writing and signed by (or by some person duly authorized by) the Party giving it and may be served by leaving it at, or sending it by facsimile, express air mail service, prepaid recorded delivery or registered post to, the address of the relevant recipient Party or Parties set out in Clause 26.2 (or as otherwise notified from time to time hereunder). Any notice so served by facsimile or post shall be deemed to have been received:

26.1.1 in the case of express air mail service, on the first working day following the day of dispatch and, in the case of facsimile, receipt of a signal by the sender's machine that the message has been received; and

26.1.2 in the case of recorded delivery or registered post, five working days from the date of posting.

26.2 The addresses of the Parties for the purpose of Clause 26.1 are as follows:

AT&T:

Chief Counsel Business Services
AT&T Corp.
295 North Maple Avenue
Basking Ridge
New Jersey 07920

Telephone: 908 221 3586
Facsimile: 908 221 8287
For the attention of: Daniel Stark

Copy to:

Executive Vice President, Global Services
AT&T Corp.
55 Corporate Drive
Bridgewater
New Jersey 08807

Telephone: 908 658 7900
Facsimile: 908 658 2497

For the attention of: Michael G. Keith

DETAILS NEEDED FOR Newco BV

For the attention of:

Copy to

27 General

- 27.1 This Agreement (including its Schedules) and the Framework Agreement represent the entire understanding between the parties in relation to the subject-matter hereof and supersede all other agreements and representations made by either Party, whether oral or written. In the event of inconsistency between terms and conditions of this Agreement and the Framework Agreement, the provisions of article 3.1 of the Framework Agreement shall apply.
- 27.2 Failure by either Party to enforce any of its rights hereunder shall not be taken as or deemed to be a waiver of such right.
- 27.3 This Agreement may only be modified if such modification is in writing and signed by a duly authorized representative of each Party.
- 27.4 The Parties shall at their own expense execute all such documents and do such acts and things as may reasonably be required for the purpose of giving full effect to this Agreement.

IN WITNESS whereof the parties or their authorized representatives have set their hands the day and year first above written.

SIGNED for and on behalf of
AT&T Corp. by:

Name: _____

Title: _____

Date: _____

SIGNED for and on behalf of
Newco BV by:

Name: _____

Title: _____

Date: _____



EXHIBIT H

FORM OF IPR AGREEMENT

**IPR AGREEMENT, including
TECHNOLOGY UNIT AGREEMENT and
attached FORMATION IPR AGREEMENTS**

IPR AGREEMENT, including TECHNOLOGY UNIT AGREEMENT and attached FORMATION IPR AGREEMENTS (the "Agreement") among AT&T Corp. ("AT&T"), British Telecommunications plc ("BT") and Thistle B.V. ("Thistle BV") (the "Parties", each a "Party"), effective as of the date of that certain Framework Agreement contemporaneously executed by the Parties and others (the "Framework Agreement").

WHEREAS, the Parties desire to enter into this Agreement as part of the transaction contemplated by the Framework Agreement.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein and in the Framework Agreement, the adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

Unless otherwise defined in this Section 1 or elsewhere in this Agreement, terms defined in the Framework Agreement and used herein shall have the respective meanings assigned to them in the Framework Agreement.

- 1.1. "API" is an acronym for Application Programming Interface and shall mean a set of interrupts, calls, data formats and the like that Software uses to contact or communicate with network services, communications systems, telephone equipment, other Software or databases.
- 1.2. "Associates" of a Party shall mean its Affiliates and all Persons in which such Party owns a non-Controlling interest of more than twenty percent (20%).
- 1.3. "Architecture" shall mean the description of the design, operation and overall implementation of Newco Group's communications system for the provision and distribution of its Global Communications Services; which communications system comprises the Network Platform and associated APIs, Newco Group Global Network Facilities and associated interfaces to both the Global and Domestic Network Facilities of Distributors, and applications that implement Newco Group Global Communications Services. The Architecture shall include the description of all technical standards which relate to Newco Group Global Network Facilities and Global Communications Services (including internal proprietary standards), as well as the description of technical standards which will allow interconnection with, and the provision and distribution of Newco Group Global Communications Services through, the Global or Domestic Network Facilities of Distributors. The term "Architecture" shall refer to both the transitional Architecture to be developed for the interconnection of the initial Newco Group Global Network Facilities in order to support Newco Group Global Communications Services (the "Transitional Architecture"), as well as the Architecture to be developed for the Newco Group's

future communications system (the "Target Architecture"). The term "Architecture" shall not include the Network Platform or any Software, Platform, API, Global Network Facilities or Domestic Network Facilities which may implement any portion of the Architecture.

- 1.4. "Business" shall mean the provision of Communications Services.
- 1.5. "Chief Operating Officer" shall mean the Technology Unit full time employee who provides the day to day administration of the Technology Unit.
- 1.6. "Confidential Technical Information" shall mean specifications, documentation, designs, drawings, hardware, Software, data, prototypes, processes, technology, know-how, methods of design or development, Inventions, or other technical information which is proprietary or confidential to a Party regardless of how such information is transmitted (including orally, or in documentary or machine-readable form, or in the form of samples from which the information may be derived) and not published or generally known in the relevant industry of such Party.
- 1.7. "Created Development" shall mean that portion of a Project Deliverable that is newly created as a result of the Development Project.
- 1.8. "Development Leader" shall mean, for each parent, the executive level person designated by it as the person having ultimate responsibility for all Development Projects which it contracts to perform.
- 1.9. "Development Project" shall mean any undertaking, work assignment or project for the technical development of any portion of the Architecture, Network Platform, Newco Group Global Network Facilities or Newco Group Global Communications Services.
- 1.10. "Disclosing Party" shall mean the Party whose Confidential Technical Information is revealed to, or learned by, any Project Personnel of another Party as a result of the Parties' performance pursuant to this Agreement.
- 1.11. "Independently Developed IPR" shall mean, for each parent , the entirety of all IPR
 - a.) licensable, as of the Closing Date, by that parent without payment to a third party or other cost or
 - b.) licensable, after the Closing Date, by that parent without payment to a third party or other cost, which IPR arose independently of its work on any Development Project.

Newco Group shall be deemed not to have any Independently Developed IPR.

- 1.12. "IPR" shall mean all intellectual property rights protectable by law anywhere throughout the world, other than Trademark Rights, but including: all copyrights (including any right to reproduce, distribute copies of, display or perform, or prepare derivative works based on a copyrighted work), copyright registrations and associated applications; registered designs; utility models; design rights; Patents; mask-work rights; semi-conductor topography rights; trade secrets; moral rights;

author's rights; other rights in Inventions, Software, designs, know-how, specifications, algorithms and databases; and all other intellectual property rights as may exist now or hereafter come into existence, and all renewals and extensions thereof and applications therefor, regardless of whether any of such rights arise under the laws of the United States, United Kingdom or any other country or jurisdiction.

- 1.13. "Inventions" shall mean all inventions, discoveries and improvements, as such terms are interpreted under Title 35 of the United States Code.
- 1.14. "Joint Invention" shall mean any patentable Invention conceived or made jointly by Project Personnel of more than one Party in performing work on a Development Project.
- 1.15. "Jointly Owned IPR" shall mean all jointly owned IPR as provided in Section 2.2 of Appendix B and any additional IPR that is owned jointly by two or more of the Parties (with respect to Thistle BV, any member of the Newco Group) in accordance with this Agreement, including as may be negotiated on a case by case basis with respect to a Development Project.
- 1.16. "Knowingly" shall mean that the relevant parent has not received a notice in writing from a third party that Software or other technology licensed pursuant hereto infringes any IPR of such third party, which notice might lead to a claim which in such parent's reasonable opinion could be deemed meritorious.
- 1.17. "member of the Newco Group" shall mean a legal entity within the Newco Group.
- 1.18. "Network Platform" shall mean the hardware and software elements that provide the control of the Newco Group Global Network Facilities through APIs, which APIs allow the manipulation of such elements by applications that implement the Newco Group Global Communications Services. The Network Platform includes all Platforms, including, for example, all operating systems and service operating environments.
- 1.19. "Migration Plan" shall mean the plan or roadmap created by the Technology Unit for the migration of Newco Group Global Network Facilities to the Target Architecture.
- 1.20. "Other IPR" shall mean all IPR except Patents and other Software Related IPR.
- 1.21. "Patents" shall mean all patentable Inventions and all "patent rights" therefor, which include the right to apply for patent protection, all associated patent applications and registrations, and the right to claim priority under applicable international conventions.
- 1.22. "Platform" shall mean the hardware and software elements for the implementation of a network service described by the Architecture.
- 1.23. "Product Technology Council" shall mean the council created by the CTO and having the function described in Section 4 hereof.

- 1.24. "Project Deliverable" shall mean a deliverable for a Development Project.
- 1.25. "Project Leader" shall mean, for each Party (with respect to Thistle BV, any member of the Newco Group), the particular employee designated by such Party as its "Project Leader" for a particular Development Project. The Project Leader shall have supervisory responsibility for such Party's work on that particular Development Project.
- 1.26. "Project Personnel" shall mean, for each parent and any member of the Newco Group, its employees, contractors and contractors' employees collectively performing work on behalf of such parent or member for a particular Development Project provided that, with respect to a contractor and its employees, the parent or member has a contract with such contractor under which the parent or member will own the IPR developed by that contractor.
- 1.27. "Receiving Party" shall mean the Party whose Project Personnel receive or learn Confidential Technical Information of the Disclosing Party.
- 1.28. "Software" shall mean any source or object code instructions for controlling the operation of a central processing unit or computer, and associated supporting documentation describing such code, its installation or operation.
- 1.29. "Software Related IPR" shall mean Patent, copyright, trade secret, Confidential Technical Information and any other IPR as it pertains to particular Software.
- 1.30. "Solely Owned Project IPR" shall mean, for each Party all of its solely developed IPR pursuant to Section 2.1 of Appendix B and solely owned software Derivative Works pursuant to Section 2.1.2 of Appendix B, and any additional IPR that is owned exclusively by a Party (with respect to Thistle BV, any member of the Newco Group) as may be negotiated on a case by case basis with respect to a Development Project.
- 1.31. "Strategic Development Project" shall mean a Development Project which the Technology Unit shall directly manage.
- 1.32. "Target Architecture" shall have the meaning contained in Section 1.3 which defines the term "Architecture."
- 1.33. "Technology Council" shall mean the council comprised of the senior technical representatives of each of the Parties and the head of the Network and Systems Unit which considers the effects of, and provides guidance regarding, the Technology Plan, Architecture and Network Platform, and their implementation.
- 1.34. "Technology Development Plan" shall mean the annual plan which will govern the Newco Group's design and development of all technology needed for the conduct of the Venture Business in accordance with the Technology Plan, and will specify responsibility for the management of Development Projects.
- 1.35. "Technology Plan" shall mean the iteration of the plan which describes the strategic direction of Newco Group from a technology perspective, and will include the Target Architecture and Migration Plan.

- 1.36. "Trademark Rights" shall mean any rights protectable by law anywhere throughout the world in any name, brand, mark, trademark, service mark, trade dress, trade name, business name or other indicia of origin, including all associated trademark/service mark registrations, applications and renewals.
- 1.37. "Transitional Architecture" shall have the meaning contained in Section 1.3 which defines the term "Architecture."

2. INTERNAL STRUCTURE OF THE TECHNOLOGY UNIT

- 2.1. Chief Technology Officer. The Technology Unit shall be headed by the CTO who will report directly to the Management Board, which will determine both the CTO's performance and compensation. The CTO, in the discharge of the CTO's responsibilities, shall consult and collaborate with the CEO to jointly assure the achievement of the Newco Group's business and technological goals.

A Chief Operating Officer will report to the CTO and manage the Technology Unit on a day to day basis to allow the CTO to focus on key strategic activities, and in particular on getting alignment to the Target Architecture and Migration Plan by parents, other Distributors and suppliers.

The CTO will be specifically responsible for:

- 2.1.1. Providing the strategic direction of Newco Group through the annual presentation to the management Board of a proposed Technology Plan;
- 2.1.2. Getting approval for the Technology Development Plan and the Technology Unit budget from the Management Board;
- 2.1.3. Leading the Technology Council;
- 2.1.4. Leading the Product Technology Council;
- 2.1.5. Managing the Chief Operating Officer; and
- 2.1.6. Establishing an appropriate working arrangement with the Chief Operating Officer to discharge the following responsibilities:
 - a.) Establish and evolve the Architecture, Migration Plan and Technology Development Plan;
 - b.) Manage the Technology Unit;
 - c.) Decide which Development Projects are Strategic Development Projects (including changing the classification of Development Projects, as appropriate) and the resources to be employed in performing such Strategic Development Projects;
 - d.) Prepare the annual operating budget for the Technology Unit, including its budget for creating the Technology Plan and the design

and development of the Architecture, Network Platform and Migration Plan, and for Strategic Development Projects;

- e.) Conduct periodic program reviews to assure the Technology Development Plan is on budget and schedule; and
- f.) Seek alignment of relevant plans of Distributors and suppliers to facilitate the provision of the end-to-end seamless nature of Newco Group Global Communications Services.

2.2. Functions of the Technology Unit. The Technology Unit shall be responsible for the near and long term technical direction of the Newco Group. The Technology Unit shall fulfill the functions set forth below in Sections 2.2.1, 2.2.2 and 2.2.3. It shall discharge these functions through a dedicated technology staff together with necessary administrative and support resources, as well as appropriate access to administrative and support resources centrally provided and funded by Newco Group, such as Human Resources, Chief Financial Office and Legal.

2.2.1. Architecture / Network Platform Function. The Technology Unit shall work with each parent and, consistent with all confidentiality obligations, other Distributors, to design and develop the Architecture and cause the creation of the Network Platform. This function shall include, with the Network and Systems Unit and Product Unit, creating the Migration Plan and ensuring Newco Group's compliance with such Plan.

2.2.2. Development Function. The Technology Unit shall work with the Network and Systems Unit and Product Unit to create the Technology Development Plan and shall be responsible for ensuring Newco Group's compliance with such Plan. This function shall include directly managing all Strategic Development Projects.

2.2.3. Supplier Relations Function. The Technology Unit shall be responsible for interfacing with suppliers of hardware equipment, software and systems to ensure the availability of technology to support the Architecture, Network Platform and technical aspects of Newco Group Global Network Facilities and Newco Group Global Communications Services. This function shall include issuing requests for information on technology choices and directions. The Technology Unit shall establish the strategic supply strategy for technology to be used by the Newco Group.

3. TECHNOLOGY COUNCIL

To ensure that the evolution of the Target Architecture and Migration Plan is suitable for the Newco Group and alignment by the parents, the CTO will establish the Technology Council. The views of the Technology Council will be included in the CTO's presentation of the Architecture and Migration Plan to the Management Board. To facilitate a wider perspective, the CTO may invite presentations from others, including Distributors and suppliers.

4. PRODUCT TECHNOLOGY COUNCIL

- 4.1. Purpose. To ensure that evolution of the Target Architecture and Migration Plan will meet the Newco Group Global Communications Services needs, the CTO will establish the Product Technology Council.
- 4.2. Structure. The members shall include representatives of the parents and each of the Business Units. At the CTO's discretion, the CTO may, as appropriate and when technology related issues concerning the distribution of Newco Group Global Communications Services are to be discussed, extend the representation to include other Distributors.
- 4.3. Issue Forum. The Product Technology Council shall serve as a forum to address issues related to its purpose.

5. FUNDING OF THE TECHNOLOGY UNIT

- 5.1. Direct Funding From the Management Board. The Technology Unit shall propose to the Management Board the annual budget for funding the Technology Unit's operating expenses, including its budget for creating the Technology Plan and the design and development of the Architecture, Network Platform and Migration Plan, and for Strategic Development Projects.
- 5.2. Funding From the Other Business Units. The Technology Unit shall work with the other Business Units to establish the annual budget for the technical design and development of Newco Group Global Network Facilities and Newco Group Global Communications Services. Insofar as the Technology Unit shall perform work for another Business Unit, it shall be funded by such Business Unit for such work.

6. ROLE OF THE TECHNOLOGY UNIT TO THE NEWCO GROUP

- 6.1. Technology Plan Approval. The CTO shall present the Technology Plan to the Management Board for approval. The Management Board must also approve any material changes to the Technology Plan. For purposes of this Section only, a material change to the Technology Plan is one that would cause a revision to the annual operating budget of either parent or the Newco Group.
- 6.2. Technology Development Plan. The Technology Unit will work closely with the Business Units to ensure that the Technology Development Plan will deliver in accordance with the Technology Plan and continues to meet the commercial and technical goals of Newco Group. The Network and Systems Unit would be responsible for identifying to the Technology Unit any needs for new capabilities/capacity of Newco Group Global Network Facilities. The Product Unit, MNC Unit and ICS Unit would be responsible for identifying to the Technology Unit technical requirements for new Newco Group Global Communications Services. In working closely with the Business Units to develop and maintain the Technology Development Plan, the Technology Unit will identify the Strategic

Projects which will be directly managed by the CTO. Other than as specified in the Technology Development Plan, the Business Units shall not engage in the development of technology for any products or services, whether or not for Newco Group Global Network Facilities or Newco Group Global Communications Services.

- 6.3. Review Role. In order to ensure that the Newco Group executes the Technology Development Plan, the Technology Unit shall review the planning, design, development, implementation and expenditures of and for all technology related activities of Newco Group.
- 6.4. Changes to the Technology Development Plan. If a Business Unit requires a change to the Technology Development Plan which may alter the Technology Plan then such changes shall be subject to agreement with the CTO. If the Technology Unit should need to make a change the Technology Development Plan which would impact on the annual operating plan and budget of Newco Group such changes shall be subject to agreement by the CEO.

7. CTO AND CEO RELATIONSHIP

The CTO will provide technical leadership for the Newco Group and will actively seek to align the network and systems of Distributors to facilitate the distribution and provision of Newco Group Global Communications Services. The CTO will have authority to render final decisions for the Newco Group with respect to technology related matters. In the event of a dispute between the CTO and the Newco Group CEO on any technology related matters neither shall execute with respect to such matter unless otherwise resolved by the Management Board.

8. ROLE OF THE CTO / TECHNOLOGY UNIT TO PARENTS

- 8.1. Advisory Role. Recognizing that the parents are major Distributors and that, as such, it is important to the business success of Newco Group to encourage the parents to adopt network platforms that are consistent and align with the Newco Group's in order to facilitate the distribution and provision of Newco Group Global Communications Services, the Technology Unit shall advise and make recommendations to each parent on the Architecture, the Network Platform and technical aspects of Newco Group Global Communications Services.
 - 8.1.1. The CTO shall on a quarterly basis, or more or less frequently as may be requested by either parent, advise the Chief Technology Officer of each parent on the current state and anticipated evolution of the Architecture, Network Platform, Migration Plan and technical aspects of Newco Group Global Communications Services.

- 8.2. Work with Parents. The Technology Unit will consider a reasonable request by either parent to assist such parent in creating a plan for the alignment of such parent's network with the Architecture and Network Platform.
- 8.3. Alignment with the Architecture. If either parent should fail to sufficiently align its networks and systems with the Architecture such that, in the opinion of the CTO, the Newco Group may not be able to effectively and efficiently provide its Global Communications Services through such parent as a Distributor, then the CTO shall work with such parent to achieve a reasonable solution. If no such solution is reached, the CTO shall notify the Management Board.

9. ROLE OF THE CTO / TECHNOLOGY UNIT TO DISTRIBUTORS AND SUPPLIERS

- 9.1. Advisory Role. Insofar as it is important to the business success of Newco Group, it shall encourage the Distributors to sufficiently align their networks and systems to facilitate the distribution and provision of Newco Group Global Communications Services. The Technology Unit may advise and make recommendations to particular Distributors concerning such Distributors' networks and systems to achieve such alignment.
- 9.2. Alignment with the Architecture. If a Distributor (other than a parent, which is described above in Section 8.3) should fail to sufficiently align its networks and systems with the Architecture such that, in the opinion of the CTO, the Newco Group may not be able to effectively and efficiently provide its Global Communications Services through such Distributor, then the CTO shall notify the CEO.

10. CONDUCT OF DEVELOPMENT PROJECTS

- 10.1. Parents Provide Primary Development Resources. Recognizing that it is in the best interests of the Parties that resources for the design and development of the Architecture and Network Platform and for the technical design and development of Newco Group Global Network Facilities and Newco Group Global Communications Services be used as efficiently as possible, the Newco Group shall primarily engage the parents for related Development Projects. Where appropriate, the Newco Group shall seek an equitable distribution of Development Projects and funding where this is consistent with Newco Group's business goals.
- 10.2. Third Party Resources. After giving due consideration to the expertise of the parents and their respective resources, the Newco Group may, subject to the terms and conditions addressing confidentiality and those of Section 13, engage a third party for a Development Project to be performed by that third party alone or jointly with any of the Parties.

- 10.3. Request For AT&T or BT To Conduct A Development Project. The Technology Unit shall work with the Development Leaders to understand the parents' respective areas of expertise and resources and, based on such information, shall appropriately request that either (or both) parent(s) conduct a Development Project. Such request shall be submitted to the selected parent in the form described in the Development Services Appendix annexed hereto in Appendix A, which shall govern the process for acceptance of the request and the conduct of the Development Project.
- 10.4. IPR Related Terms Governing Development Projects. The terms and conditions relating to ownership, exploitation, enforcement and licensing of any IPR relating to any Development Project should normally be negotiated and mutually agreed to by the Parties (with respect to Thistle BV, any member of the Newco Group) involved on a case by case basis. In any individual case where no such agreement has been reached, or such agreement fails to address a particular aspect of IPR ownership, exploitation, enforcement or licensing, the default IPR terms and conditions set out in Appendix B shall govern and shall serve to form an agreement between such Parties with respect to the relevant Development Project.

11. ARCHITECTURE

- 11.1. Architecture. All IPR, not including Independently Developed IPR, for the Architecture shall be jointly owned by AT&T and BT regardless of which Party's Project Personnel create such IPR. The exercise of such jointly-owned IPR shall be governed by the terms of Section 15 unless such terms conflict with this Section, in which case the terms of this Section shall prevail.
- 11.2. Grant of Rights To Newco Group. The parents hereby jointly grant to the appropriate member of the Newco Group as provided in Section 14.9 a non-exclusive, non-transferable (outside the Newco Group), royalty-free license to use, operate under and permit Newco Group to use and operate under the Architecture IPR all as reasonably necessary for the Venture Business including in particular to build the Newco Group Global Network Facilities and design and develop the Network Platform and Newco Group's Global Communications Services.
- 11.2.1. The license granted above in Section 11.2 further includes the right to evolve the Architecture as deemed necessary in the opinion of the CTO, subject to approval by the Management Board as provided in Section 6.1.
- 11.3. Confidentiality of Architecture. The parents shall decide, in consultation with the CTO, which portions of the Architecture are "highly-restricted", "confidential" and "public."
- 11.3.1. Highly-restricted portions of the Architecture shall include those portions which the parents deem most sensitive (for example this may include any portions that may pertain to their services or Domestic Network Facilities).

- 11.3.2. Public portions of the Architecture would be those portions which the parents agree should be released publicly (for example to facilitate the Venture Business).
- 11.3.3. The rest of the Architecture shall be deemed confidential.
- 11.3.4. Newco Group shall treat the highly-restricted and confidential portions of the Architecture as Confidential Technical Information of the parents
- 11.4. Disclosure / Sublicensing.
 - 11.4.1. To the extent reasonably necessary in order to facilitate compatibility and connectivity with Newco Group Global Network Facilities for Venture Business purposes, the Technology Unit may disclose and sublicense to Persons the confidential and public portions of Architecture, as such terms are defined above in Sections 11.3.2 and 11.3.3, provided that, with respect to the confidential portion, such Persons enter into a non disclosure agreement which agreement shall include confidentiality obligations no less stringent than those in Section 17 and enforceable by either parent.
 - 11.4.2. To the extent reasonably necessary for the Venture Business in order to have implementations of the Architecture made for Newco Group's Global Network Facilities or Newco Group's Global Communications Services, the Technology Unit may disclose to third party suppliers the confidential and public portions of Architecture, as such terms are defined above in Sections 11.3.2 and 11.3.3, provided that, with respect to the confidential portion, such suppliers enter into a non disclosure agreement which agreement shall include confidentiality obligations no less stringent than those in Section 17 and enforceable by either parent. No rights or licenses may be granted by Newco Group to enable such suppliers to use Architecture IPR to furnish any products or services to any third parties save for the purposes indicated in Section 11.4.1.
 - 11.4.3. Newco Group may only disclose and license the highly-restricted portions of the Architecture, as such term is defined above in Section 11.3.1, with the parents' consent.
- 11.5. Parent Restrictions. Recognizing the importance of the Architecture to the success of the Newco Group, the parents will also agree to certain restrictions on their licensing and disclosure of the Architecture as required pursuant to such importance, including not disclosing it in a manner that is inconsistent with the non-compete obligations of the Framework Agreement.

12. PERFECTION OF RIGHTS IN TECHNOLOGY UNIT IPR

- 12.1. Perfection: Services to Perfect. With respect to IPR to be owned by the Newco Group, the Technology Unit may perfect such rights in such territories as deemed appropriate by it.

- 12.1.1. When the Technology Unit seeks to perfect such rights in IPR obtained as a result of a contract with one or more parent(s), the Technology Unit shall, in order to perfect such IPR, use the services of the particular parent which generated that IPR or, if the parent did not generate the IPR, the parent with whom it negotiated the ownership of such IPR.
- 12.1.2. When the Technology Unit seeks to perfect such rights in other IPR owned by Newco Group, it shall use the services of either parent as it may decide on a case by case basis.
- 12.2. Assignment of Right to Perfect IPR in a Particular Territory. If the Technology Unit does not seek or maintain protection for IPR to be owned by Newco Group in a particular territory, it shall notify both parents of this in good time and either parent (or both) can request to have assigned to it (or them jointly) the right to obtain protection for such IPR in such territory.
 - 12.2.1. In response to such request, the Technology Unit shall, at its sole option, either (a) seek to obtain protection for such IPR in such territory (b) assign such right to the requesting parent(s) after effecting the grant of the licenses pursuant to Section 14.8.
 - 12.2.2. In the event that the Technology Unit selects the option set forth in clause (b) of Section 12.2.1 above, the parent(s) to whom such right is assigned hereby grant(s) to the appropriate member of the Newco Group as provided in Section 14.9 a perpetual, nonexclusive license under such IPR in that territory, with the right to perform, and permit others to perform, any act which would otherwise be prohibitable by an owner of such IPR.

13. DEVELOPMENT BY THIRD PARTIES

- 13.1. Duty to Maximize Rights. If Newco Group should engage any third party for a Development Project, Newco Group shall seek to maximize the rights to and under IPR which it obtains pursuant to such engagement. In all events, Newco Group shall obtain sufficient rights from such third party to permit it to fully exploit the resultant Project Deliverables for the Venture Business.
- 13.2. Parent Rights. In seeking to maximize such rights to and under IPR, Newco Group shall also seek to obtain the ability to sublicense or transfer such rights to the parents so that each of them may use and operate under the IPR in the conduct of their respective Businesses. Either AT&T or BT may consult with the Technology Unit concerning the costs of obtaining such rights from such third party in comparison to the expected benefits from third-party rights.

14. OWNERSHIP AND REQUESTS FOR LICENSE AND IPR PRINCIPLES

- 14.1. Independently Developed IPR.

- 14.1.1. Ownership. AT&T and BT shall each solely and exclusively own its respective Independently Developed IPR.
- 14.1.2. No Implied Rights. Except as provided in the Formation IPR Agreements or a license agreement among, or between any of, the Parties (with respect to Thistle BV, any member of the Newco Group), no rights or licenses are granted by either parent to the other, or to any member of the Newco Group, in any Independently Developed IPR, and nothing contained herein shall be construed as conferring by implication, estoppel or otherwise any license or rights in favor of any such Persons in any Independently Developed IPR.
- 14.2. Request for License. Licenses under Independently Developed IPR of a parent which may be useful to the Venture Business may be requested by the Technology Unit. Such requests should not be unreasonably denied and should be granted on a case by case basis subject to mutually agreeable terms and conditions which shall include fair and reasonable compensation for any rights granted.
- 14.2.1. Identification of Independently Developed IPR. To the extent a parent is aware that licenses under any of its Independently Developed IPR may be needed by another Party (with respect to Thistle BV, any member of the Newco Group) to carry out the Venture Business, that parent shall so advise such other Parties promptly. Failure to comply with this Section 14.2.1 shall not be deemed a breach of this Agreement.
- 14.3. Obtaining Licenses from Related Persons. Insofar as the Venture Business may need, or any Newco Group Global Communications Services may incorporate IPR licensable by
- 14.3.1. a non-Subsidiary Associate of a Party, that Party shall undertake reasonable efforts in requesting relevant rights for Newco Group in such IPR; or
- 14.3.2. a Subsidiary of a Party, that Party shall undertake all reasonable efforts to use its relationship with that Subsidiary in seeking to obtain rights for Newco Group in such IPR.
- 14.4. Payments For Licenses From Related Persons. Insofar as any payments are required to obtain rights pursuant to Section 14.3, the negotiating Party shall promptly notify Newco Group and if Newco Group decides to proceed, the Newco Group shall be responsible for all such payments.
- 14.5. Obtaining Rights Under Beneficial Licenses Enjoyed by a Parent. Insofar as the Venture Business may need, or any Newco Group Global Communications Services may incorporate IPR of a third party and a parent can obtain relevant rights at a favorable total cost through an existing license enjoyed by such parent, such parent shall consider, but may deny in its discretion, a request by the Newco Group to obtain such relevant rights. Insofar as any payments are required to obtain such rights, including any payments to the requested parent to cover costs that may be incurred by that parent in obtaining such rights, the requested parent shall promptly

notify the Newco Group and, if the Newco Group decides to proceed, the Newco Group shall be responsible for all such payments.

- 14.6. Notice of Third-Party IPR. Where either parent grants a license of IPR or assigns or transfers IPR to the Newco Group in accordance with Section 14.9, if such parent is aware that in order to make use of such IPR, there will be a need to make use of IPR owned by third parties (whether Associates or otherwise) which has been licensed to such parent, such parent shall notify the Technology Unit of such fact as soon as reasonably practicable after it becomes aware of the same. Failure to comply with this Section 14.6 shall not be deemed a breach of this Agreement.
- 14.7. IPR Principles. Rights granted or assigned in accordance with the following principles shall be on fair and reasonable terms and conditions.
- 14.7.1. Each Party shall have a sufficient right to use Project Deliverables in furtherance of the Venture Business.
- 14.7.2. Each parent shall have a right to obtain licenses under all Solely Owned Project IPR and all Jointly Owned IPR, such licenses being sufficient in scope to permit that parent to use Created Developments in the conduct of its Business.
- 14.7.3. Each parent shall in good faith consider a request from the other parent for a license under its Independently Developed IPR which such parent incorporates in or is necessary to use its Created Development, such license being sufficient in scope to permit the requesting parent to use the Created Development in the conduct of its Business.
- 14.8. Licenses Under Technology Unit IPR. The Technology Unit hereby effects the grant to each parent under IPR that is licensable by any member of the Newco Group without payment to a third party or other cost, a non-exclusive, royalty free, fully paid-up license to perform and permit others to perform any act which would otherwise be prohibitable by an owner of such IPR.
- 14.8.1. In respect of IPR licensable by a member of the Newco Group but only with payment to a third party or other cost, the Technology Unit shall work together with a parent desiring rights under such IPR to effect a license in favor of such parent on terms acknowledging such payments or other costs.
- 14.9. IPR of The Newco Group. As soon as practicable, the Parties shall decide which member(s) of the Newco Group will (a) commission a Development Project on behalf of the Newco Group and (b) be directly licensed under or, if the Person owning IPR for such Development Project is willing to assign the same, have title to the resultant IPR. In all events, the Technology Unit will manage and administer all Newco Group IPR on behalf of the Newco Group.
- 14.9.1. The Parties shall also decide whether IPR created in the course of a Newco Group employee's employment and covered by an employment agreement

with a member of the Newco Group should be centrally maintained by the Newco Group and the procedure to implement such intent.

15. RIGHTS IN JOINTLY OWNED IPR

- 15.1. Meaning of Joint Ownership. Joint ownership of IPR means that each joint owner is free to use and exploit that IPR as if each were the sole owner, including the right to grant an exclusive or sole license as to or to assign its own share but without the right to grant an exclusive or sole license as to or to assign the other owner's share. Each joint owner shall be entitled to do without the consent of or the need to account to any other joint owner any act which would amount to an infringement of any of such jointly owned IPR and it shall not be an infringement of any of the such jointly owned IPR to do such an act. Insofar as a joint owner requires consent from the other joint owners of the jointly owned IPR to do any such act or acts, such consent is hereby given.
- 15.2. No Accounting. Except as may be prohibited in Section 15.4, each joint owner shall have the right to grant, under any jointly owned IPR, licenses to any Persons and collect royalties thereon without accounting to the other joint owner(s) of such jointly owned IPR, and to grant releases for past conduct which would infringe or misappropriate such jointly owned IPR.
- 15.3. Consents. Insofar as a joint owner requires consent under any rule of law from the other joint owners to grant licenses of any of the jointly owned IPR, such consent is hereby given. Insofar as consent to any assignment of a joint owner's share is required under any rule of law by the other joint owners, such consent is hereby given. Insofar as the giving of consent is necessary for IPR enforcement or defense proceedings in any jurisdiction, such consent is hereby given.
- 15.4. Prohibitions on Licensing or Assigning an Interest in Jointly Owned IPR. No joint owner may, without consent of the other joint owner(s), license or assign its interest in any jointly owned IPR, or provide a release for liability associated with infringement or misappropriation thereof:
 - 15.4.1. to a Person who is a party to a pending litigation, arbitration, mediation or written dispute in which such Person is alleged by another joint owner to have infringed or misappropriated such jointly owned IPR or a derivative thereof or improvement thereto; or
 - 15.4.2. in a manner that is inconsistent with the non-compete provisions of the Framework Agreement.
- 15.5. Consultation on Licensing Jointly Owned IPR. If a joint owner is engaged in ongoing license negotiations with a third party concerning jointly owned IPR or a third party is a licensee of a joint owner jointly owned IPR, and as long as such license is in effect, another joint owner shall not grant a license to such third party under such jointly owned IPR without first consulting the relevant joint owner.

- 15.6. Defense of Jointly Owned IPR. The joint owners will consult in the event of any proceedings attacking validity or enforceability of jointly owned IPR with a view to assisting each other in respect of such proceedings. Such assistance may include agreeing to be joined in the action where this is necessary to the proceedings. The joint owner defending such proceedings shall keep the other joint owners informed of the progress of the proceedings in a timely manner.
- 15.7. Furnishing of Jointly Owned Materials. The Parties shall furnish to one another documents and materials, which are jointly owned.
- 15.8. Survival. The above provisions relating to the Parties' exercise of rights in jointly owned IPR shall survive termination of this Agreement in perpetuity

16. ENFORCEMENT AND LICENSING OF IPR

- 16.1. Parties Shall Refrain From Certain Licensing. Consistent with the Framework Agreement, each parent agrees in principle that as long as it, directly or indirectly, owns a substantial interest in Newco Group, it shall not engage in IPR licensing in the other parent's Home Territory which is intended to undermine the "Non-Competition" provisions of the Framework Agreement.
- 16.2. Clarification of Permitted Licensing. Licenses that are not inconsistent with the "Non-Competition" provisions of the Framework Agreement shall be deemed not to undermine Venture Business even if such licenses are granted to Persons who compete with Newco Group. For the avoidance of doubt and without any intent to be exhaustive, licenses not inconsistent with the "Non-Competition" provisions of the Framework Agreement include licenses granted pursuant to the following.
 - 16.2.1. Entering into, or continuing, any agreement or arrangement for collaborative research, which may include ancillary developments of research-grade prototypes and limited commercial trials in order to facilitate such research.
 - 16.2.2. Licensing IPR or transferring technology to a third party for the purposes of development, manufacture, commercial exploitation of a product or service provided that such license or transfer does not have an adverse material effect on the Newco Group's Architecture or technology strategy.
 - 16.2.3. Granting licenses in support of national or international standards or their generation (whether the standards are generated by national or supra-national organizations or otherwise).
 - 16.2.4. Entering into or continuing development agreements with companies who are not engaged in telecommunications.
 - 16.2.5. Entering into or continuing broad patent cross-license agreements with third parties.
 - 16.2.6. Disclosing Independently Developed IPR by way of publication.

- 16.3. Cooperation in Enforcement. Except as may otherwise be provided in any contract concerning a Development Project, consistent with their respective business interests, a parent shall reasonably cooperate with Newco Group in the protection of that parent's interest in the Venture Business through the enforcement of associated IPR which such parent is entitled to enforce or, at no cost to itself, is entitled to require to be enforced. The parent and relevant members of the Newco Group may, on a case by case basis, negotiate and mutually agree on the terms and conditions under which such IPR will be enforced.
- 16.4. Enforcement of Newco Group IPR. Where a parent desires to enforce a member of Newco Group's IPR in a particular jurisdiction, it shall notify the Technology Unit of the infringement and, if the Newco Group is unwilling to enforce such IPR, the concerned Parties shall consider how to proceed.

17. CONFIDENTIAL TECHNICAL INFORMATION

- 17.1. Confidential Technical Information. In pursuing areas in which the sharing of information may be mutually advantageous to the Parties, each Party may wish to disclose to the other, and/or to receive from the other, Confidential Technical Information. A Disclosing Party shall undertake reasonable efforts to ensure that its Confidential Technical Information is (a) where in tangible form marked "Confidential", "Proprietary" or with such other similar legend indicating the confidential nature of the information disclosed, or, (b) disclosed under circumstances reasonably indicating the confidential nature of the information disclosed.
- 17.2. Limited Reproduction and Use. A Receiving Party shall reproduce and use Confidential Technical Information only to the extent necessary for the purposes of defining, considering or performing work pursuant to a Development Project or as otherwise permitted, and shall restrict disclosure of Confidential Technical Information to its employees, officers and authorized agents or to employees, and officers and authorized agents of the other parent or of the Newco Group or as otherwise permitted. A Receiving Party shall keep, and shall ensure that those Persons to whom it discloses the same keep, confidential the Confidential Technical Information it receives from another Party and shall not disclose it to any third party without the prior written consent of the Disclosing Party.
- 17.3. Non-Confidential Technical Information. The following information shall not be deemed Confidential Technical Information and shall not be subject to the restrictions of this Section 17:
- 17.3.1. Information independently developed by the Receiving Party or lawfully received free of restriction from another source having the right to furnish such information; or
- 17.3.2. Information that is or becomes generally available to the public without breach of this Agreement by the Receiving Party; or

17.3.3. Information that, at the time of disclosure to the Receiving Party, was known to the Receiving Party free of restriction as evidenced by documentation in the Receiving Party's possession; or

17.3.4. Information that the Disclosing Party agrees in writing is free of such restrictions.

17.4. Compelled Disclosure. The prohibitions on the disclosure of Confidential Technical Information under this Agreement shall not preclude a Receiving Party, on the advice of counsel, from complying with applicable law or other demand under lawful process, including a discovery request in a civil litigation, if the Receiving Party first gives the Disclosing Party notice of the required disclosure and cooperates with the Disclosing Party, at the Disclosing Party's sole expense, in seeking reasonable protective arrangements with the Party requiring disclosure under applicable law or other demand under lawful process. In no event shall the Receiving Party's cooperation with the Disclosing Party require the Receiving Party to take any action which, on the advice of Receiving Party's counsel, could result in the imposition of any sanctions or other penalties against the Receiving Party.

17.5. Consultants / Contractors. A Receiving Party shall not disclose to any of its consultants or contractors (even if such consultants or contractors are deemed Project Personnel hereunder) the Confidential Technical Information of a Disclosing Party without, and only to the extent of, the written permission of such Disclosing Party. In the event such permission is granted, such Receiving Party shall, unless otherwise required by the written permission, enter into a written agreement with the consultant or contractor, which agreement shall include confidentiality obligations consistent with this Agreement and enforceable by the Disclosing Party.

17.6. Jointly Owned IPR.

17.6.1. Unless otherwise provided in any other agreement, each joint owner of IPR shall be free to disclose information regarding such IPR unless all joint owners of such IPR shall agree that such information should be treated as Confidential Technical Information.

17.6.2. Notwithstanding the provisions of Section 17.6.1, any underlying Confidential Technical Information of a Disclosing Party which may be incorporated in a work protected by Jointly Owned IPR shall be maintained confidential in accordance with the other provisions in Section 17.

17.7. Survival. The confidentiality provisions of this Section shall survive termination of this Agreement.

18. EXPORT

18.1. Compliance with US Law. BT and the Newco Group acknowledge that any products, software, and technical information (including, but not limited to, services

and training) to be provided by AT&T under this Agreement are subject to U.S. export laws and regulations and any use or transfer of such products, software, and technical information must be authorized under those regulations. BT and the Newco Group shall not use, distribute, transfer, or transmit the products, software, or technical information (even if incorporated into other products) except in compliance with U.S. export regulations.

- 18.2. Letter of Assurance. BT and the Newco Group hereby assure AT&T that they will not, directly or indirectly, "export" or "reexport" the following items to the countries listed in Section 18.3:

18.2.1. software or "technical data" disclosed or provided to them by AT&T; or

18.2.2. the direct product of such software or "technical data."

- 18.3. Prohibited Countries. The countries to which the software and "technical data" must not be transferred are: Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Cambodia, Cuba, Estonia, Georgia, Iran, Iraq, Kazakhstan, Kyrgystan, Laos, Latvia, Libya, Lithuania, Moldova, Mongolia, North Korea, People's Republic of China, Romania, Russia, Sudan, Syria, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam, or, to the extent not specifically identified, any country in Country Groups D:1 or E:2 (15 C.F.R. Part 740, Supp.1) or otherwise identified by the US Government as a country to which such export or reexport is restricted.

- 18.4. Exclusions. The commitments in Sections 18.1 and 18.2 apply unless:

18.4.1. the export administration regulations of the U.S. Department of Commerce explicitly permit the export or reexport; or

18.4.2. the office of export licensing of the U.S. Department of Commerce first grants authorization in writing.

- 18.5. Compliance with U.K. Law. AT&T and the Newco Group acknowledge that any products, software, and technical information (including, but not limited to, services and training) to be provided by BT under this Agreement are subject to U.K. export laws and regulations and any use or transfer of such products, software, and technical information must be authorized under those regulations. AT&T and the Newco Group shall not use, distribute, transfer, or transmit the products, software, or technical information (even if incorporated into other products) except in compliance with U.K. export regulations.

- 18.6. Letter of Assurance. AT&T and the Newco Group hereby assure BT that they will not, directly or indirectly, "export" or "reexport" the following items to the countries listed in Section 18.7:

18.6.1. software or "technical data" disclosed or provided to them by BT; or

18.6.2. the direct product of such software or "technical data."

- 18.7. Prohibited Countries. The countries to which the software and "technical data" must not be transferred are identified by the U.K. Government as a country to which such export or reexport is restricted.
- 18.8. Exclusions. The commitments in Sections 18.5 and 18.6 apply unless the export administration regulations of the U.K. Government explicitly permit the export or reexport or first grants authorization in writing.
- 18.9. Export Definitions. As used in this section, "technical data" means information of any kind for development, production, or use of any product. "Development" means a stage prior to serial production such as design and design research, concept, analyses, data configuration, and integration; the process of transforming design data into a product; layouts; assembly or testing of prototypes; or pilot production schemes. "Production" means a stage of serial production such as product engineering, manufacture, integration, assembly (including mounting), inspection, testing, or quality assurance. "Use" means installation (including on-site installation), operation, maintenance, repair, or overhaul and refurbishing. "Export" and "reexport" mean transferring or releasing to another country or to a national of another country (wherever that person is located) by any means--physical, electronic, or otherwise. You "transfer" software or technical data when you send it physically or electronically to another country or to a national of another country (wherever that person is located). You "release" software when you disclose its source code. You "release" technical data when you do any of the following: (i) allow a person to visually inspect technical data, equipment, and facilities; (ii) orally convey technical data; (iii) apply outside the U.S./U.K., as applicable, personal knowledge or technical experience; or (iv) train people.
- 18.10. Assistance. Each Party will, as appropriate, assist the others with their compliance with the relevant export/import laws in furtherance of the Venture Business.
- 18.11. Survival. The obligations under this Section shall survive termination of this Agreement.

19. RISK ALLOCATION

- 19.1. NO PARTY WILL BE LIABLE TO ANY OTHER PARTY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM ANY OTHER PARTY'S RIGHTS) FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND -- INCLUDING LOST REVENUES OR PROFITS, LOSS OF BUSINESS OR LOSS OF DATA -- IN ANY WAY RELATED TO THIS AGREEMENT (INCLUDING WITHOUT LIMITATION AS A RESULT OF ANY BREACH OF ANY WARRANTY OR OTHER TERM OF THIS AGREEMENT OR AS A RESULT OF NEGLIGENCE OR BREACH OF STATUTORY DUTY), REGARDLESS OF WHETHER THE PARTY LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.

19.2. The Architecture is made available by the parents to Newco Group "AS IS." NEITHER PARENT MAKES ANY WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE ARCHITECTURE OR ITS IMPLEMENTATION, INCLUDING WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR WARRANTIES AGAINST INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS.

19.2.1. Notwithstanding the foregoing to the contrary, each parent will use it reasonable efforts to ensure that it does not Knowingly cause the Architecture itself (i.e., the document and not any implementation described by the document) to (a) be an infringement of any copyright of a third party, (b) contain information in breach of a confidentiality obligation owed to a third party, or (c) contain instructions which if executed would necessarily and unavoidably cause an infringement of a third party Patent, except insofar such parent may have otherwise advised a member of the Newco Group.

19.3. The Parties each acknowledge that the provisions of this Agreement were negotiated to reflect an informed, voluntary allocation between them of all risks (both known and unknown) associated with the transactions contemplated by this Agreement and the Framework Agreement. The warranty disclaimers and limitations are intended to limit the circumstances of liability. The remedy limitations, and the limitations of liability, are separately intended to limit the forms of relief available to the Parties. The provisions of this Section shall be enforceable independent of and severable from any other enforceable or unenforceable provision of this Agreement.

19.4. Any liability of the parents under this Agreement shall be governed in accordance with Article 25 of the Framework Agreement.

20. REPRESENTATION

20.1. No Pass Through. BT represents and warrants that it is under no obligation to license or otherwise transfer to MCI WorldCom, Inc. ("MCI") any IPR rights that may be, in connection with the parties' agreement herein or agreement under any Transaction Agreement, (a) licensed by AT&T or Newco Group to BT, (b) created solely by BT, or (c) jointly owned by either of the other Parties (with respect to Thistle BV, any member of Newco Group) with BT.

20.2. No Encumbrances. BT represents and warrants that it has the full and absolute right and power to grant licenses to IPR contributed by BT in accordance with the Framework Agreement and that such IPR is otherwise unencumbered by rights of, or obligations to, MCI other than those obligations contained in Section 5 of the Unwind Agreement dated 7 August 1998.

21. CONTROLLING AGREEMENT AS TO IPR MATTERS

Insofar as any of the other Transaction Agreements shall include IPR related provisions, such provisions shall be interpreted in a manner that is fully consistent with this IPR Agreement and shall otherwise be of no force or effect. Insofar as such Agreement may be silent with respect to IPR matters, the provisions of this IPR Agreement shall apply.

22. NOTICES

All notices pursuant to this IPR Agreement, including any notice concerning an IPR matter under any Transaction Agreement, shall be delivered in accordance with the Framework Agreement or such Transaction Agreement as the case may be, with copy sent to the Chief Intellectual Property counsel of the relevant parent.

23. CHOICE OF LAW/IPR DISPUTES

This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of New York, applicable to contracts made and to be performed entirely within such State.

24. TERMINATION

24.1. Termination of Agreement. This Agreement shall terminate in the event of dissolution of the Newco Group in accordance with the Framework Agreement.

24.1.1. IPR owned jointly by a member of the Newco Group and a parent(s) will be automatically transferred on such termination to the remaining co-owning parent(s).

24.1.2. IPR which is owned, wholly or in part, by one or more members of the Newco Group shall upon such termination be assigned to both parents jointly.

24.1.3. The provisions of Section 2.4 (entitled "Facilities Software") of the Formation IPR Agreements attached as Appendices C and D shall apply and be changed as necessary with respect to Facilities Software in order to enable each parent and its assignees to use, for their lifetime, the physical assets which are assigned to or become the property of such parent pursuant to such termination.

24.1.4. Unless otherwise described above, or agreed for particular IPR on a case by case basis, all IPR licenses and rights under IPR contemplated by this Agreement shall be extended such that they shall terminate six (6) years after the date the relevant notice is given pursuant to the Framework Agreement.

24.1.5. Insofar as any IPR is to be owned jointly by the parents after dissolution, their rights and obligations with regard to such IPR shall be as set forth in Section 15.

24.2. Exercise of Put or Call. In the event that a Put or Call is exercised in accordance with the Framework Agreement, this Agreement shall terminate with respect to the non-shareholder parent and IPR licenses, and rights under IPR, contemplated by this Agreement and granted by or to that parent shall continue for the term set forth in Section 24.1.

25. MISCELLANEOUS

25.1. Further Assurances. Each of the Parties covenants to execute upon request any further documents reasonably necessary to effect the express terms and conditions of this Agreement, including such documents as are reasonably necessary to vest title in IPR as provided in this Agreement. The requesting Party shall bear the reasonable costs of the other Party in complying with such request. Each Party shall, without any cost to the other, take such action as is necessary to secure from its Project Personnel the rights required to effect the ownership of IPR as provided in this Agreement.

25.2. Rules of Construction. As used in this Agreement, (i) neutral pronouns and any derivations thereof shall be deemed to include the feminine and masculine and all terms used in the singular shall be deemed to include the plural and vice versa, as the context may require; (ii) the words "hereof," "herein," "hereunder" and other words of similar import refer to this Agreement as a whole, including all exhibits and schedules as the same may be amended or supplemented from time to time, and not to any subdivision of this Agreement; (iii) the word "including" or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it; (iv) descriptive headings and titles used in this Agreement are inserted for convenience of reference only and do not constitute a part of and shall not be utilized in interpreting this Agreement, and (v) the phrase "(with respect to Thistle BV, any member of the Newco Group)", or words to that effect, has been used in relation to word "Party" or "Parties" to indicate that the reference to "Party" or "Parties" should not be limited to Thistle BV but should include or reference the relevant member of the Newco Group, as applicable. The latter principle of construction should be applied where the context clearly requires such interpretation even if the phrase "(with respect to Thistle BV, any member of the Newco Group)" has not been used. This Agreement shall be fairly interpreted in accordance with its terms and without any strict construction in favor of or against either Party.

25.3. Survival. The obligations and rights of the Parties under this Agreement that expressly or by their nature would continue beyond termination of this Agreement shall survive termination of this Agreement.

25.4. No Assignment. Section 28.7 of the Framework Agreement concerning "No Assignment" shall apply equally to this Agreement as if set forth herein at length.

IN WITNESS WHEREOF, this Agreement has been executed and delivered by the Parties set forth below as of the Effective Date.

AT&T Corp.

By _____
Name:
Title:

British Telecommunications plc

By _____
Name:
Title:

Thistle B.V.

By _____
Name:
Title: